

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

MILFORD WASHINGTON, #345332,

Petitioner,

v.

ACTION NO. 2:07cv293

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

O R D E R

The Court has received and filed a petition for writ of habeas corpus submitted pursuant to 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on October 28, 2004, in the Circuit Court of Stafford County for unauthorized possession of credit cards, possessing checks, possessing fictitious identification, three counts uttering, and ten counts forgery of checks, as a result of which he was sentenced to serve five years and sixty-nine months in the Virginia penal system.

Inasmuch as the petition designates an extraneous party respondent, it is ORDERED that the petition shall be deemed amended to substitute as the sole respondent in this proceeding Gene M. Johnson, Director of the Virginia Department of Corrections. See Rule 2 of the Rules Governing Section 2254 Cases in the United States District Courts (foll. 28 U.S.C. § 2254).

Petitioner's motion for expansion of the record [Doc. No. 3] is GRANTED, and the clerk is DIRECTED to provide a copy to the respondent and to the Attorney General of Virginia. In addition, petitioner's memorandum in support of petition titled, "Petition for Appeal for Writ for Habeas Corpus"[Doc. No. 7] is ORDERED filed, and the clerk is DIRECTED to provide a copy to the respondent and to the Attorney General of Virginia.

It is ORDERED that the respondent file within 30 days from the date of this Order an answer

to the petition conforming to the requirements of Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, together with the attachments specified in said Rule 5. Without limiting said answer, respondent shall advise whether the petitioner has exhausted his state court remedies with respect to the issues raised in the federal petition. Petitioner may, if he desires, file a response to respondent's answer to the petition within twenty-one (21) days after receipt of said answer.

If the petitioner has exhausted his state court remedies pertaining to his allegations by direct appeal or by a state habeas corpus proceeding, the respondent is requested to cause the state court records and transcripts of petitioner's original trial and related proceedings and the state court's habeas corpus transcripts and records, if any, applicable to the grounds alleged in the petition, to be forwarded to this Court for examination WITHIN THIRTY DAYS OF THE DATE OF THIS ORDER. Said state court records and transcripts will be carefully maintained and will be returned to the Clerk of the proper court upon termination of this proceeding.

Upon the filing of respondent's answer, any response by petitioner, and the receipt of the state court records and transcripts, this Court will enter such further order as may be appropriate.

Petitioner is hereby ORDERED to send a copy of all future correspondence and pleadings sent to this Court to counsel of record for the respondent and to certify to the Court that the copy has been sent. See Federal Rule of Civil Procedure 5(a). The certification must read substantially as follows and be placed at the end of the pleading:

**I certify that on Date I mailed a copy of this pleading to Name
if known, Assistant Attorney General of Virginia, 900 East Main Street,
Richmond, Virginia 23219.**

Signature of Petitioner

The Clerk shall mail a copy of this Order to the petitioner, to the respondent and to the Attorney General of Virginia.

/s/
Tommy E. Miller
United States Magistrate Judge

Norfolk, Virginia

September 5, 2007